

105TH CONGRESS
1ST SESSION

S. 1076

To provide relief to certain aliens who would otherwise be subject to removal from the United States.

IN THE SENATE OF THE UNITED STATES

JULY 28, 1997

Mr. MACK (for himself, Mr. GRAHAM, and Mr. KENNEDY) (by request) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide relief to certain aliens who would otherwise be subject to removal from the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. This Act may be cited as the “Immigra-
4 tion Reform Transition Act of 1997”.

5 SEC. 2. (a) Section 240A, subsection (e), of the Im-
6 migration and Nationality Act is amended—

7 (1) in the first sentence, by striking “this sec-
8 tion” and inserting in lieu thereof “section
9 240A(b)(1)”;

1 (2) by striking “, nor suspend the deportation
2 and adjust the status under section 244(a) (as in ef-
3 fect before the enactment of the Illegal Immigration
4 Reform and Immigrant Responsibility Act of
5 1996),”; and

6 (3) by striking the last sentence in the sub-
7 section and inserting in lieu thereof “The previous
8 sentence shall apply only to removal cases com-
9 menced on or after April 1, 1997, including cases
10 where the Attorney General exercises authority pur-
11 suant to paragraphs (2) or (3) of section 309(e) of
12 the Illegal Immigration Reform and Immigrant Re-
13 sponsibility Act of 1996 (Public Law 104–208, Divi-
14 sion C, 110 Stat. 3009).”.

15 (b) Section 309, subsection (c), of the Illegal Immi-
16 gration Reform and Immigrant Responsibility Act of 1996
17 (Public Law 104–208, Division C, 110 Stat. 3009) is
18 amended by striking paragraphs (5) and (7).

19 (c) Section 240A of the Immigration and Nationality
20 Act is amended—

21 (1) in subsection (b), paragraph (3), by striking
22 “(1) or (2)” in the first and third sentences of that
23 paragraph and inserting in lieu thereof “(1), (2), or
24 (3)”; and

1 (2) in subsection (b), by redesignating para-
2 graph (3) as paragraph (4);

3 (3) in subsection (d), paragraph (1), by striking
4 “this section.” and inserting in lieu thereof “sub-
5 sections (a), (b)(1), and (b)(2).”;

6 (4) in subsection (b), by adding after paragraph
7 (2) the following new paragraph—

8 “(3) SPECIAL RULE FOR CERTAIN ALIENS COV-
9 ERED BY THE SETTLEMENT AGREEMENT IN AMER-
10 ICAN BAPTIST CHURCHES ET AL. V. THORNBURGH
11 (ABC), 760 F. SUPP. 796 (N.D. CAL. 1991).—

12 “(A) The Attorney General may, in his or
13 her discretion, cancel removal and adjust the
14 status from such cancellation in the case of an
15 alien who is removable from the United States
16 if the alien demonstrates that—

17 “(i) the alien has not been convicted
18 at any time of an aggravated felony, and

19 “(I) was not apprehended after
20 December 19, 1990, at the time of
21 entry, and is either—

22 “(aa) a Salvadoran national
23 who first entered the United
24 States on or before September
25 19, 1990, who registered for ben-

1 efits pursuant to the ABC settle-
2 ment agreement on or before Oc-
3 tober 31, 1991, or applied for
4 Temporary Protected Status on
5 or before October 31, 1991; or

6 “(bb) a Guatemalan national
7 who first entered the United
8 States on or before October 1,
9 1990, and who registered for
10 benefits pursuant to the ABC
11 settlement agreement by Decem-
12 ber 31, 1991; or

13 “(cc) the spouse or unmar-
14 ried son or daughter of an alien
15 described in (aa) who entered the
16 United States on or before Sep-
17 tember 19, 1990, or the spouse
18 or unmarried son or daughter of
19 an alien described in (bb) who
20 entered the United States on or
21 before October 1, 1990; or

22 “(II) is a Nicaraguan, Guate-
23 malan, or Salvadoran who filed an ap-
24 plication for asylum with the Immi-
25 gration and Naturalization Service be-

1 fore April 1, 1990, and the Immigra-
2 tion and Naturalization Service had
3 not granted, denied, or referred that
4 application as of April 1, 1997; and

5 “(ii) the alien is not described in
6 paragraph (4) of section 237(a) or para-
7 graph (3) of section 212(a) of the Act; and

8 “(iii) the alien—

9 “(I) is removable under any law
10 of the United States except the provi-
11 sions specified in subclause (II) of this
12 clause, has been physically present in
13 the United States for a continuous pe-
14 riod of not less than seven years im-
15 mediately preceding the date of such
16 application, and proves that during all
17 of such period he was and is a person
18 of good moral character, and is a per-
19 son whose removal would, in the opin-
20 ion of the Attorney General, result in
21 extreme hardship to the alien or to his
22 spouse, parent, or child, who is a citi-
23 zen of the United States or an alien
24 lawfully admitted for permanent resi-
25 dence; or

1 “(II) is removable under para-
2 graph (2) (other than section
3 237(a)(2)(A)(iii)) of section 237(a),
4 paragraph (3) of section 237(a), or
5 paragraph (2) of section 212(a), has
6 been physically present in the United
7 States for a continuous period of not
8 less than 10 years immediately follow-
9 ing the commission of an act, or the
10 assumption of a status, constituting a
11 ground for deportation, and proves
12 that during all of such period he has
13 been and is a person of good moral
14 character, and is a person whose re-
15 moval would, in the opinion of the At-
16 torney General, result in exceptional
17 and extremely unusual hardship to the
18 alien or to his spouse, parent or child,
19 who is a citizen of the United States,
20 or an alien lawfully admitted for per-
21 manent residence.

22 “(B) Subsection (d) of this section shall
23 not apply to determinations under this para-
24 graph, and an alien shall not be considered to
25 have failed to maintain continuous physical

1 presence in the United States under clause
2 (A)(iii) of this paragraph if the alien dem-
3 onstrates that the absence from the United
4 States was brief, casual, and innocent, and did
5 not meaningfully interrupt the continuous phys-
6 ical presence.

7 “(C) The determination by the Attorney
8 General whether an alien meets the require-
9 ments of subparagraph (A) or (B) of this para-
10 graph is final and shall not be subject to review
11 by any court. Nothing in the preceding sentence
12 shall be construed as limiting the application of
13 subparagraph (B) of section 242(a)(2) to other
14 eligibility determinations pertaining to discre-
15 tionary relief under this Act.”.

16 (d) The amendments made by this section shall be
17 effective as if included in Illegal Immigration Reform and
18 Immigrant Responsibility Act of 1996 (Public Law 104–
19 208, Division C, 110 Stat. 3009).

20 SEC. 3. Any alien who has become eligible for suspen-
21 sion of deportation or cancellation of removal as a result
22 of the amendments made by section 2, may, notwithstand-
23 ing any other limitations on motions to reopen imposed
24 by the Immigration and Nationality Act or by regulation,
25 file one motion to reopen to apply for suspension of depor-

1 tation or cancellation of removal. The Attorney General
2 shall designate a specific time period in which all such mo-
3 tions to reopen must be filed. The period must begin no
4 later than 120 days after the date of enactment of this
5 Act and shall extend for a period of 180 days.

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